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STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

EXAMINER

DANIEL JR, WILLIE J

ART UNIT	PAPER NUMBER
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2686

DATE MAILED: 07/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/848,347

Applicant(s)

JEONG ET AL.

Examiner

Willie J. Daniel, Jr.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 May 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-15 and 17-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-15 and 17-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 May 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Drawings

1. The objections to Figs. 1, 7A-B are withdrawn, as the proposed Figs. 1, 7A-B corrections are approved.

Specification

2. The disclosure is objected to because of the following informalities:
 - a. Amendment A8 on pg. 8, line 3 has step "608" which is not displayed in Fig. 6B replacement sheet submitted 03 May 2004.

Appropriate correction is required.

Claim Objections

3. The objections to the Claims 9 and 17 are withdrawn, as the proposed claim 9 and 17 corrections are approved.

Claim Rejections - 35 USC § 112

4. The rejections to Claims 9 and 22 are withdrawn, as the proposed claim 9 and 22 corrections are approved.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-2, 4-8, 12-15, 17-19, 24, and 25 are rejected under 35 U.S.C. 102(e) as being anticipated by **Fette et al.** (hereinafter "**Fette**" will be used) (**US 6,052,600**).

Regarding **Claim 1**, Fette discloses a method of distributing application software applied to an application software distribution system (114) (see col. 2, lines 34-58; col. 3, lines 22-42; Figs. 1, 3, and 4), comprising the steps of:

a) initializing to distribute application software files to a mobile station (200) (see col. 4, lines 30-34), where the mobile is being prepared for a software upgrade;

b) receiving an application software transmission/reception requiring message from the mobile station (200) (see col. 4, lines 26-29);

c) if the application software transmission requiring message is received, transmitting the application software file to the mobile station (200) (see col. 4, lines 25-36; Fig. 3); and

d) if the application software reception requiring message is received, receiving the application software file from the mobile station (200) (see col. 9, lines 20-28; Fig. 4), where the mobile user transmits information related to applications contained on the mobile station which will update the database of the server,

wherein c) includes:

c1) constructing a transmission plan in the application software distribution system (114) and transferring a transmission plan message to the mobile station (200) (see col. 4, lines 34-36; Figs. 3 and 4), where the system constructs a message (plan) that is transferred to the mobile station for delivering a software file would be inherent;

c2) opening an application software file to be transmitted (see col. 3, lines 22-41; col. 4, lines 34-35), where the opening of the application would be inherent; and

c3) transmitting the application software file to the mobile station (200) (see col. 4, lines 34-35).

Regarding **Claim 2**, Fette discloses the method as recited in claim 1, before, further comprises: e) generating a thread in the application software distribution system (see col. 4, lines 25-35; Fig. 3), where the system inherently develops the instructions (thread) to carry out the software upgrade or configuration.

Regarding **Claim 4**, Fette discloses the method as recited in claim 2, before c1) further comprises:

c4) transmitting a response message to the application software transmission requiring message (see col. 4, lines 25-36; Fig. 3), where the message is sent containing the software.

Regarding **Claim 5**, Fette discloses the method as recited in claim 2, wherein d) comprises:

d1) constructing a reception plan in response to an application software reception requiring message (see col. 4, lines 25-36; Fig. 3), where the constructing plan would be inherent;

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d2) receiving application software file packets (see col. 4, lines 25-36; col. 8, lines 16-21; Fig. 3);

d3) determining whether there is an error in the application software file packets (see col. 8, lines 22-31; col. 8, line 49 - col. 9, line 13; Figs. 3 and 4); and

d4) if there is no error in the application software file packet, storing the application software file packets (see col. 5, lines 41-48; col. 7, lines 6-12; col. 8, lines 22-31; col. 8, line 49 - col. 9, line 13; Figs. 3 and 4).

Regarding **Claim 6**, Fette discloses the method as recited in claim 5, before b), further comprises:

f) confirming that the mobile station (200) is a service subscriber (see col. 8, lines 3-14; Figs. 3 and 4), where the license is checked to make sure the mobile station is a subscriber.

Regarding **Claim 7**, Fette discloses the method as recited in claim 4, further comprises:

c5) if all of the application software files are transmitted, transmitting an application software transmission completion packet to the mobile station (see col. 9, lines 5-14; col. 9, line 66 - col. 10, line 7; Fig. 4);

c6) receiving an application software transmission requirement releasing message from the mobile station (200) (see col. 9, line 5-14), where a releasing message sent by the mobile would be inherent for successful completion of application transmission; and

c7) terminating the thread (see col. 9, lines 5-14; col. 9, line 66 - col. 10, line 7; Fig. 4).

Regarding **Claim 8**, Fette discloses the method as recited in claim 7, wherein the application software distribution system (114) stores charging information to make a user of

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the mobile station (200) chargeable for an execution of said application software program (see col. 3, line 58 - col. 4, line 2; col. 4, lines 37-39).

Regarding **Claim 12**, Fette discloses a method of distributing application software file applied to a mobile station (200) (see col. 2, lines 34-58; col. 3, lines 22-42; Figs. 1, 3, and 4), comprises:

a) performing an initialization in the mobile station (200) (see col. 4, lines 30-34), where the mobile is being prepared for a software upgrade;

b) transmitting an application software transmission/reception requiring message to an application software distribution system (114) (see col. 4, lines 26-33);

c) if the application software transmission requiring message is transmitted, receiving an application software file from the application software distribution system (114) (see col. 4, lines 25-36; Fig. 3); and

d) if the application software reception requiring message is transmitted, transmitting the application software file (see col. 4, lines 25-36; Figs. 3 and 4), where the software file is transmitted to the mobile station,

wherein c) includes:

c1) receiving a transmission plan message from an application software distribution system (114) (see col. 3, lines 22-41; col. 4, lines 25-36; Fig. 3), where receiving a plan message from the software distribution system would be inherent for software upgrade;

c2) constructing a reception plan (see col. 4, lines 26-36; Fig. 3), where the plan would be inherent for receiving of software;

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c3) receiving an application software transmission start packet from the application software distribution system (see col. 3, lines 22-41; col. 4, lines 26-36; Fig. 3), where the start packet would be inherent in the transmitting of the software to the mobile station;

c4) standing by to receive an application software file (see col. 3, lines 22-41; col. 4, lines 26-36; Fig. 3), where the mobile station stands by to receive software;

c5) receiving the application software file from the application software distribution system (114) (see col. 3, lines 22-41; col. 4, lines 33-39), where the mobile station (200) receives the software from the SDC (114); and

c6) storing the application software file (see col. 3, lines 22-41; col. 4, lines 33-39; col. 5, lines 40-49), where the mobile station stores the software in the memory.

Regarding **Claim 13**, Fette discloses the method as recited in claim 12, after c), further comprising:

e) installing the application software file (see col. 4, line 36; Fig. 3), where the mobile radio loads the software.

Regarding **Claim 14**, Fette discloses the method as recited in claim 13, before a), further comprising:

f) selecting an application software program necessary for the mobile station, if there is no necessary application software file (see col. 4, lines 26-36), where the SDC queries with vendors for updates when the SDC doesn't have the latest software version or updates.

Regarding **Claim 15**, Fette discloses the method as recited in claim 14, after b), further comprising:

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g) receiving a response to the application software reception requirement message (see col. 4, lines 34-36; Figs. 3 and 4).

Regarding **Claim 17**, Fette discloses the method as recited in claim 12, after c5), further comprising:

c7) performing an error checking of the application software file (see col. 8, lines 16-32; col. 9, lines 5-13; Fig. 3 and 4).

Regarding **Claim 18**, Fette discloses the method as recited in claim 15, wherein e) comprises:

e1) receiving an application software transmission completion packet from the application software distribution system (114) (see col. 9, lines 5-14; col. 9, line 66 - col. 10, line 7; Fig. 4);

e2) determining whether there is an error in the application software file (see col. 8, lines 22-31; col. 8, line 49 - col. 9, line 13; Figs. 3 and 4); and

e3) if there is no error in the application software file, installing the application software file (see col. 5, lines 41-48; col. 7, lines 6-12; col. 8, lines 22-31; col. 8, line 49 - col. 9, line 13; Figs. 3 and 4).

Regarding **Claim 19**, Fette discloses the method as recited in claim 18, further comprising:

performing a data backup for information concerned with the user of the mobile station (200) through a data backup equipment, when the mobile station (200) is not used for a constant period by automatically checking a using period of the user of the mobile station (see col. 9, lines 24-48; Figs. 1 and 4), where the server and record computer keeps track of

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data such as programs, records, license grants, and billing information associated with the user.

Regarding **Claim 24**, Fette discloses a computer readable record medium storing instructions for executing a method for distributing application software applied to an application software distribution system (114) (see col. 2, lines 34-58; col. 3, lines 22-42; Figs. 1, 3, and 4), the method comprising:

- a) initializing to distribute application software files to a mobile station (200) (see col. 4, lines 30-34);

- b) receiving an application software transmission/reception requiring message from the mobile station (200) (see col. 4, lines 26-29);

- c) if the application software transmission requiring message is received, transmitting the application software file to the mobile station (200) (see col. 4, lines 25-36; Fig. 3); and

- d) if the application software reception requiring message is received, receiving the application software file from the mobile station (200) (see col. 9, lines 20-28; Fig. 4), where the mobile user transmits information related to applications contained on the mobile station which will update the database of the server,

wherein c) includes:

- c1) constructing a transmission plan in the application software distribution system (114) and transferring a transmission plan message to the mobile station (200) (see col. 4, lines 34-36; Figs. 3 and 4), where the system constructs a message (plan) that is transferred to the mobile station for delivering a software file would be inherent;

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c2) opening an application software file to be transmitted (see col. 3, lines 22-41; col. 4, lines 34-35), where the opening of the application would be inherent; and

c3) transmitting the application software file to the mobile station (200) (see col. 4, lines 34-35).

Regarding **Claim 25**, Fette discloses a computer readable record medium storing instructions for executing a method for distributing application software applied to a mobile station (200) (see col. 2, lines 34-58; col. 3, lines 22-42; Figs. 1, 3, and 4), the method comprising:

a) performing an initialization in the mobile station (200) (see col. 4, lines 30-34), where the mobile is being prepared for a software upgrade;

b) transmitting an application software transmission/reception requiring message to an application software distribution system (114) (see col. 4, lines 26-33);

c) if the application software transmission requiring message is transmitted, receiving an application software file from the application software distribution system (114) (see col. 4, lines 25-36; Fig. 3); and

d) if the application software reception requiring message is transmitted, transmitting the application software file (see col. 4, lines 25-36; Figs. 3 and 4), where the software file is transmitted to the mobile station,

wherein c) includes:

c1) receiving a transmission plan message from an application software distribution system (114) (see col. 3, lines 22-41; col. 4, lines 25-36; Fig. 3), where receiving a plan message from the software distribution system would be inherent for software upgrade;

c2) constructing a reception plan (see col. 4, lines 26-36; Fig. 3), where the plan would be inherent for receiving of software;

c3) receiving an application software transmission start packet from the application software distribution system (see col. 3, lines 22-41; col. 4, lines 26-36; Fig. 3), where the start packet would be inherent in the transmitting of the software to the mobile station;

c4) standing by to receive an application software file (see col. 3, lines 22-41; col. 4, lines 26-36; Fig. 3), where the mobile station stands by to receive software;

c5) receiving the application software file from the application software distribution system (114) (see col. 3, lines 22-41; col. 4, lines 33-39), where the mobile station (200) receives the software from the SDC (114); and

c6) storing the application software file (see col. 3, lines 22-41; col. 4, lines 33-39; col. 5, lines 40-49), where the mobile station stores the software in the memory.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 9-11 and 20-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Fette et al.** (hereinafter "**Fette**" will be used) (**US 6,052,600**) in view of **Criss et al.** (hereinafter "**Criss**" will be used) (**US 6,643,506**).

Regarding **Claim 9**, Fette teaches of the method wherein a) comprises:

a1) generating a program identifier (PID) allocated to transmit the application software transmission plan message (see col. 4, lines 25-36), where a program identity would be inherent. Fette fails to disclose having an internet protocol (IP) address allocated to transmit the application. However, the examiner maintains that an internet protocol (IP) address allocated to transmit the application was well known in the art, as taught by Criss.

In the same field of endeavor, Criss teaches having an internet protocol (IP) address allocated to transmit the application (see col. 11, line 54 - col. 12, line 19; Fig. 4 and 7a-b).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Fette and Criss wherein the step a) includes the steps of: a1) generating a program identity (PID) allocated to transmit the application software transmission plan message; and a2) storing the PID and an internet protocol (IP) address allocated to transmit the application software are stored.

The advantage of combining the teachings of Fette and Criss is to have a system and method in which software upgrades are provided wirelessly to mobile devices which does not require significant down time and service costs.

Regarding **Claim 10**, the combination of Fette and Criss discloses everything claimed, as applied above (see claim 9), in addition Fette further teaches of performing a data backup for information concerned with the user of the mobile station (200) through a data backup equipment, when the mobile station is not used for a constant period by automatically checking a using period of the user of the mobile station (200) (see col. 9, lines 24-48; Figs. 1 and 4), where the server and record computer keeps track of data such as programs, records, license grants, and billing information associated with the user.

Regarding **Claim 11**, the combination of Fette and Criss discloses everything claimed, as applied above (see claim 10), in addition Fette further teaches wherein the application software distribution system (114) differentially provides a storing space in accordance with an age or an occupation of the user of the mobile station (200) (see col. 4, lines 4-16; col. 9, lines 39-49; Figs. 1 and 4), where the record keeping is based on the user's occupation.

Regarding **Claim 20**, Fette teaches the method as recited in claim 12, wherein the step a) comprises:

a1) generating a program identifier (PID) allocated to transmit the application software transmission plan message (see col. 4, lines 25-36), where a program identity would be inherent. Fette fails to disclose having an internet protocol (IP) address allocated to transmit

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the application. However, the examiner maintains that an internet protocol (IP) address allocated to transmit the application was well known in the art, as taught by Criss.

Criss further teaches having an internet protocol (IP) address allocated to transmit the application (see col. 11, line 54 - col. 12, line 19; Fig. 4 and 7a-b).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Fette and Criss wherein the step a) includes the steps of: a1) generating a program identity (PID) allocated to transmit the application software transmission plan message; and a2) storing the PID and an internet protocol (IP) address allocated to transmit the application software are stored.

The advantage of combining the teachings of Fette and Criss is to have a system and method in which software upgrades are provided wirelessly to mobile devices which does not require significant down time and service costs.

Regarding **Claim 21**, the combination of Fette and Criss discloses everything claimed, as applied above (see claim 20), in addition Fette further teaches wherein the application software distribution system (114) differentially provides a storing space in accordance with an age or an occupation of the user of the mobile station (200) (see col. 4, lines 4-16; col. 9, lines 39-49; Figs. 1 and 4), where the record keeping is based on the user's occupation.

Regarding **Claim 22**, the combination of Fette and Criss discloses everything claimed, as applied above (see claim 21), in addition Criss further teaches wherein the mobile station deletes the application software or transmits the application software to the storing space of the application software distribution system, if the storing space of the mobile

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station is shortage (see col. 14, lines 23-54), where the mobile station deletes the old version to save storing space in the memory.

Regarding **Claim 23**, the combination of Fette and Criss discloses everything claimed, as applied above (see claim 22), in addition Criss further teaches the feature of automatically connecting to a server designated by a uniform resource locator (URL) of a specified site, when the application software file distributed from the application software distribution system is executed, the URL being set inside the application software (see col. 19, lines 52 - col. 20, line 16; Figs. 7a-e and 14a-d).

Response to Arguments

7. Applicant's arguments with respect to claim 03 May 2004 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Willie J. Daniel, Jr. whose telephone number is (703) 305-8636. The examiner can normally be reached on 7:30-4:30.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marsha D. Banks-Harold can be reached on (703) 305-4379. The fax phone

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number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

WJD,JR/wjd,jr
05 July 2005


CHARLES APPIAH
PRIMARY EXAMINER